

**277.010 Repealed, 1972.**

**Catchline at repeal:** Organization of railroad companies -- Articles of incorporation -- Amendments to articles.

**History:** Repealed 1972 Ky. Acts ch. 274, sec. 165. -- Amended 1946 Ky. Acts ch. 141, sec. 15a. -- Recodified 1942 Ky. Acts ch. 208, sec. 1, effective October 1, 1942, from Ky. Stat. secs. 763, 764.

**277.030 Repealed, 2000.**

**Catchline at repeal:** Continuation of limited railroad grants and franchises.

**History:** Repealed 2000 Ky. Acts ch. 417, sec. 17, effective December 1, 2000. -- Recodified 1942 Ky. Acts ch. 208, sec. 1, effective October 1, 1942, from Ky. Stat. sec. 769a-2.

**Legislative Research Commission Note** (12/1/2000). The contingency on the effectiveness of the repeal of this statute set by 2000 Ky. Acts ch. 417, sec. 18, was met, the voters of the Commonwealth having ratified at the general election on November 7, 2000, a constitutional amendment (see 2000 Ky. Acts ch. 399) abolishing the Railroad Commission.

**Legislative Research Commission Note** (7/14/2000). This repeal of this statute by 2000 Ky. Acts ch. 417, sec. 17, takes effect December 1, 2000, if the constitutional amendment proposing to abolish the Railroad Commission is approved by the voters in the November 2000 general election. Otherwise, the repeal shall be void. See 2000 Ky. Acts ch. 417, sec. 18.

**277.040 Person operating mine or quarry may construct railroad line, truck road, overhead conveyor or pipeline to transport material.**

Any person operating a mine or a stone quarry may, for the purpose of transporting material between any railroad or navigable stream and the mine or quarry, construct and operate a line of railroad, truck road, overhead conveyor, or pipeline from the mine or quarry to the most convenient and accessible point on the railroad or stream, and may, under the Eminent Domain Act of Kentucky, condemn the land necessary for track, truck road, or supports for conveyor, or pipeline, not exceeding sixty (60) feet in width for each track, roadway, conveyor, or pipeline necessarily constructed, and the land for necessary buildings at the railroad or stream, not exceeding two (2) acres. The owner or operator of such railroad shall be governed by the laws relating to other railroads, so far as applicable, and shall have the same rights and privileges granted to corporations owning and operating railroads.

**Effective:** October 1, 1942

**History:** Amended 1954 Ky. Acts ch. 140, sec. 1, effective June 17, 1954. -- Recodified 1942 Ky. Acts ch. 208, sec. 1, effective October 1, 1942, from Ky. Stat. sec. 815.

**277.050 Corporation constructing or operating union station may condemn land.**

Any corporation organized under the laws of this or any other state for the purpose of constructing, maintaining or operating union railway stations for passengers or freight may, except in cities of the first class, acquire by condemnation, in the manner prescribed by the Eminent Domain Act of Kentucky, such lands and material in this state as it deems to be reasonably necessary for the purpose of constructing, maintaining and operating such union railway stations and the usual or proper tracks, platforms, sheds, approaches and other appurtenances thereto.

**Effective:** October 1, 1942

**History:** Recodified 1942 Ky. Acts ch. 208, sec. 1, effective October 1, 1942, from Ky. Stat. sec. 835a.

**277.060 Powers and duties of railroad companies as to construction, alteration and maintenance of railroad line.**

- (1) Every railroad company may:
  - (a) Cause such examinations and surveys to be made as are necessary to the selection of the most advantageous route for its proposed railroad, and for that purpose its officers, agents and servants may enter upon the property of any person, subject to liability for all damage done by them to such property.
  - (b) Receive, hold and take possession of any voluntary grants and donations of property made to it to aid in the construction, maintenance and operation of the road; any real property so received shall be held and used for the purposes of the grant or donation only.
  - (c) Purchase, hold, take possession of and use all franchises and property necessary for the construction, maintenance and accommodation of its line of railroads, but the same shall not be taken or appropriated without the consent of the owner until the compensation to be made therefor is agreed upon or ascertained, and paid or deposited, as provided by the Eminent Domain Act of Kentucky.
  - (d) Lay out and construct its road not exceeding one hundred (100) feet in width, unless more than one (1) track is laid, in which case the width may be extended not exceeding fifty (50) feet for each additional track.
  - (e) Take, in the manner provided by the Eminent Domain Act of Kentucky such lands in the vicinity of or adjacent to its road as are necessary for cuts or embankments, the procurement of stone, gravel or other materials, or for draining the roadbed.
  - (f) Change, when it deems proper, the gauge of its road.
  - (g) Change the location or grade of any portion of its road for any reasonable cause, but shall not, except as otherwise provided by law, depart from the general route prescribed in the articles of incorporation.
  - (h) Construct its road upon or across any private road, highway, street, lane or alley, and across any railroad, canal or watercourse.
- (2) Every railroad company shall restore to its former condition, as near as may be, any private road, highway, street, lane, alley, railroad, canal or watercourse upon or across which it has constructed its road, and shall maintain the same in that condition within the right-of-way of the railroad company. It shall construct suitable road and street crossings for the passage of traffic by putting down planks or other suitable material between and on each side of the rails, the top of which shall be at least as high as the top of the rails.
- (3) If the railroad is constructed upon any public street or alley, the construction shall be upon such terms and conditions as are agreed upon between the company and the authorities of the city, and the road shall not be constructed until compensation is made, either by agreement or in the manner provided by the Eminent Domain Act of Kentucky, to the owners of the property adjoining those parts of the street or alley on which the road is to be constructed.
- (4) Any railroad company may build such spurs, switches, tracks or branches as are necessary to conduct its business or develop business along its line of road, and for that purpose shall have the same powers and be subject to the same restrictions

and liabilities as are conferred or imposed upon it for the construction of its main line.

**Effective:** October 1, 1942

**History:** Amended 1976 Ky. Acts ch. 140, sec. 111. -- Recodified 1942 Ky. Acts ch. 208, sec. 1, effective October 1, 1942, from Ky. Stat. secs. 768, 769.

**277.070 Map of route to be recorded -- Notice to Transportation Cabinet if another railroad crossed.**

- (1) Every railroad company proceeding to construct its road in or through any county shall file and have recorded at its expense, in the office of the county clerk of that county, a map of the route showing the center and the width of the proposed road. If, after the map is filed and recorded, the location or the proposed route is changed, a map showing the change, and the center and width thereof, shall be filed and recorded at the expense of the company in the office of the county clerk of the county in which the change is made.
- (2) If the proposed route indicated by the map crosses the line of any other railroad, the company filing the map shall, before commencing the construction of the road near the point of crossing, notify the Kentucky Transportation Cabinet. The cabinet shall notify the company whose road it is proposed to cross, and the company proposing to cross it, that if any objection is made to the crossing the cabinet will meet, at a stated time and place, to consider the question of approving the crossing. The cabinet may determine the manner in which the crossing shall be made in order to protect against accidents.

**Effective:** December 1, 2000

**History:** Amended 2000 Ky. Acts ch. 417, sec. 11, effective December 1, 2000. -- Recodified 1942 Ky. Acts ch. 208, sec. 1, effective October 1, 1942, from Ky. Stat. sec. 767.

**277.080 Railroad company may transport by motor vehicle and by air.**

Any railroad company may engage in the business of a common carrier for the transportation of persons and property by motor vehicles operated upon the highways and by airplanes in the air, and may purchase or lease the property, rights and franchises of any person engaged in transportation of persons or property by motor vehicle or by airplane, and may acquire the capital stock of any corporation engaged in such transportation, or make any agreement or arrangement, not inconsistent with laws, with any person engaged or authorized to engage in such transportation. All railroad companies exercising the powers granted by this section shall, in their operation of motor vehicles, be deemed common carriers by motor vehicle, and shall be subject to all the laws of this state applicable to such motor carriers.

**Effective:** October 1, 1942

**History:** Recodified 1942 Ky. Acts ch. 208, sec. 1, effective October 1, 1942, from Ky. Stat. sec. 768a.

**277.090 Railroad company may operate ferry.**

- (1) Any railroad company may, without securing the grant of any ferry franchise or privilege from the county judge/executive, transport, or employ other persons to transport for it, any passengers, baggage or freight carried, or to be carried, on its railroad line, across any stream within or bordering upon this state.

- (2) Any railroad company operating a ferry for the purposes mentioned in subsection (1) of this section may transport thereon any other persons, freight or baggage offered for transportation upon obtaining the grant of a ferry franchise or privilege in the manner prescribed by law, except that no railroad company, employee, agent or trustee of a railroad company, shall be granted a franchise or privilege to establish, operate or maintain a new ferry within one mile and a half in a straight line of any ferry already established and in operation.

**Effective:** June 17, 1978

**History:** Amended Ky. Acts ch. 384, sec. 455, effective June 17, 1978. -- Recodified 1942 Ky. Acts ch. 208, sec. 1, effective October 1, 1942, from Ky. Stat. sec. 769a-1.

#### **277.110 Contract or lease under which railroad is operated to be recorded.**

Every person operating a railroad in this state under a contract or lease shall, within thirty (30) days after the contract or lease is executed, have it recorded in the office of the Secretary of State and in the office of the county clerk of each county in which the road or any part thereof lies.

**Effective:** October 1, 1942

**History:** Recodified 1942 Ky. Acts ch. 208, sec. 1, effective October 1, 1942, from Ky. Stat. sec. 791.

#### **277.200 Period of obstructing highway, street or navigable stream limited.**

- (1) No railroad company shall obstruct any public highway or street, or the navigation of any stream, by stopping and permitting trains, engines or cars to stand upon a public grade crossing or upon a drawbridge for more than five (5) minutes at any one time, unless such stopping and standing is caused by circumstances beyond control of the railroad company.
- (2) No member of a railroad train crew shall be held personally guilty of violating a municipal ordinance regulating the blocking of public grade crossings by trains, engines or cars, on proof that his action was necessary to comply with the orders or instructions of the railroad company or its officers; Provided That nothing in this section shall relieve the railroad company from any responsibility placed upon it by said ordinance.

**Effective:** October 1, 1942

**History:** Amended 1970 Ky. Acts ch. 201, sec. 1. -- Recodified 1942 Ky. Acts ch. 208, sec. 1, effective October 1, 1942, from Ky. Stat. sec. 768.

#### **277.210 Air brake, passenger trains required to have.**

No passenger train shall be run without an air brake, or some equally effective appliance for controlling the speed of trains, that can be applied by the engineer to each car composing the train, and that shall at all times be kept in good condition and ready for use. This section does not apply to mixed trains.

**Effective:** October 1, 1942

**History:** Recodified 1942 Ky. Acts ch. 208, sec. 1, effective October 1, 1942, from Ky. Stat. sec. 778.

#### **277.230 Frogs on tracks.**

Every railroad company shall keep the frogs on its tracks adjusted, fixed or blocked to prevent the feet of its employees from being caught therein.

**Effective:** October 1, 1942

**History:** Recodified 1942 Ky. Acts ch. 208, sec. 1, effective October 1, 1942, from Ky. Stat. sec. 780.

**277.240 Height of bridges and passways over railroad tracks -- Telltales.**

- (1) A bridge or passway constructed over any railroad, except in cities having power under their charters to regulate the height of bridges or passways, shall not be at a less height than twenty-two (22) feet above the track of the road, unless by the written authority of the Kentucky Transportation Cabinet.
- (2) Whenever there is, over any railroad track, a bridge, tunnel or other obstruction at a height of less than seven (7) feet above the roof of the freight cars used or hauled on that railroad, the officers of the railroad shall erect and keep in repair at or near the bridge, tunnel or obstruction, and on each side thereof, a rod or beam placed across the track at such height and at such distance from the bridge, tunnel or obstruction as the cabinet directs, and from the rod or beam shall be suspended straps, ropes, or cords of such length as the cabinet determines, and not greater than six (6) inches apart, for a width of eight (8) feet, directly over the track.

**Effective:** December 1, 2000

**History:** Amended 2000 Ky. Acts ch. 417, sec. 13, effective December 1, 2000. -- Recodified 1942 Ky. Acts ch. 208, sec. 1, effective October 1, 1942, from Ky. Stat. sec. 776.

**277.245 Required equipment on cars for transportation of railroad employees.**

It shall be unlawful for any owner or operator of a railroad running through or within the boundaries of the Commonwealth of Kentucky and engaged in the business of common carrier to operate for or transport its employees in a motor car which is not equipped with a reasonably substantial top for the protection of said employees from rain, snow, sleet and hail and equipped with a transparent windshield sufficient in width and height to reasonably protect said employees, which windshield shall be of safety glass and such car shall also be equipped with a permanent electric headlamp of sufficient candle power as to render visible at a distance of three hundred (300) feet in advance of such car under ordinary atmospheric conditions, any obstruction, land mark, warning sign or grade crossing on such railroad and said car shall also be equipped with two (2) electric lights on the rear end thereof with sufficient candle power as to be visible at a distance of three hundred (300) feet under ordinary atmospheric conditions, and such car shall also be equipped with an electric windshield wiper that will remove rain, snow and sleet from the windshield on such car while such car is moving, and said windshield wiper shall be so devised that the driver of said car can start or stop said windshield wiper while he is driving the car.

**Effective:** June 19, 1952

**History:** Created 1952 Ky. Acts ch. 149, sec. 1, effective June 19, 1952.

**277.250 Getting on or off moving train.**

No person, except a passenger or an employee in the usual and necessary discharge of his duties, shall get on or off, or swing or ride on, or hang from the outside of, any engine, train or car while it is in motion or switching, or immediately preceding its moving or switching.

**Effective:** October 1, 1942

**History:** Recodified 1942 Ky. Acts ch. 208, sec. 1, effective October 1, 1942, from Ky. Stat. sec. 805.

**277.270 Railroad policemen, how appointed and removed.**

- (1) Any company owning or operating a railroad in this state may apply to the Governor to appoint and commission as railroad policemen such persons as the company designates. The Governor, upon such application being made and upon the payment to him of a fee of five dollars (\$5) for each policeman to be appointed, shall appoint such persons as the company designates, or as many thereof as he deems proper to be such policemen, and shall give commissions to those appointed.
- (2) When a railroad company no longer needs the services of a railroad policeman so appointed, notice to that effect, signed by the general manager or by the person in charge of operating the railroad, may be filed in the several offices in which the commission of the policeman is recorded. The clerk shall note the fact upon the margin of the record where the commission is recorded, and thereupon the power of the policeman shall cease as to any particular county in which such notice is so filed and recorded.

**Effective:** October 1, 1942

**History:** Recodified 1942 Ky. Acts ch. 208, sec. 1, effective October 1, 1942, from Ky. Stat. secs. 779a-1, 779a-2, 779a-7, 779a-8.

**277.280 Bond, powers and compensation of railroad policemen.**

- (1) Each railroad policeman shall, before he enters upon the discharge of the duties of his office, execute bond, with good security, conditioned for the faithful performance of his duty as such policeman, and take and subscribe an oath of office. The bond shall be executed in the county in which the policeman resides, or in which the railroad has its registered process agent, if any, within the state, or in which the policeman performs any duties as a railroad policeman, and the bond shall be approved, and the oath administered, by the county judge/executive. The bond and oath shall be entered of record by the county clerk, and the execution of the bond and the taking of the oath shall be indorsed upon the commission of the person so qualifying. Each policeman so appointed and commissioned shall, throughout the counties through which the railroad operates, have and exercise the powers of sheriffs and constables in making arrests for public offenses committed upon or about railroad property, and in serving process in criminal and penal prosecutions for such offenses, and shall be subject to all the liabilities of sheriffs or constables.
- (2) The compensation of railroad policemen shall be fixed and paid by the railroad company for which they are appointed.

**Effective:** July 15, 1986

**History:** Amended 1986 Ky. Acts ch. 304, sec. 1, effective July 15, 1986. -- Amended 1978 Ky. Acts ch. 384, sec. 456, effective June 17, 1978. -- Amended 1976 (1<sup>st</sup> Extra. Sess.) Ky. Acts ch. 20, sec. 6, effective January 2, 1978. -- Amended 1974 Ky. Acts ch. 218, sec. 1. -- Recodified 1942 Ky. Acts ch. 208, sec. 1, effective October 1, 1942, from Ky. Stat. secs. 779a-3, 779a-5.

**277.290 Badges of railroad policemen -- Insignia of passenger train employees.**

- (1) Each railroad policeman shall, while on duty, wear a metal badge or shield, with the words "Railroad Police" and the name or initials of the railroad engraved thereon.

When acting as a detective in the service of the railroad, he may wear the badge or shield concealed.

- (2) Every railroad company shall require a uniform hat or cap and distinguishing badges to be worn by all its employees, other than engineers and firemen, whose duties relate immediately to the transportation of passengers.

**Effective:** October 1, 1942

**History:** Recodified 1942 Ky. Acts ch. 208, sec. 1, effective October 1, 1942, from Ky. Stat. secs. 779, 779a-4.

### **277.310 Liability of railroads for injury or death of employees.**

Every common carrier by railroad, while engaged in commerce in this state, shall be liable in damages to any person suffering injury while he is employed by the carrier in such commerce, and in case of the death of such person shall be liable to his personal representative, for such injury or death as resulted in whole or in part from the negligence of any of the officers, agents or employees of the carrier, or by reason of any defect or insufficiency, due to its negligence, in its track, roadbed, rolling stock, machinery, docks, boats, wharves or other equipment.

**Effective:** October 1, 1942

**History:** Recodified 1942 Ky. Acts ch. 208, sec. 1, effective October 1, 1942, from Ky. Stat. sec. 820b-1.

### **277.315 Liability insurance requirement for special passenger excursion trains -- Limitation of damages.**

- (1) As used in this section:

- (a) "Nonprofit sponsor" means a corporation whose purpose includes the historic preservation of documents, memorabilia, and equipment associated with the railroad industry, and public education regarding the history, current functions, and future of railroad transportation and which is exclusive to religious, scientific, literary, or educational within the meaning of 26 U.S.C. sec. 501(c)(3) as amended; and

- (b) "Special passenger excursion train" means a train offered by a nonprofit sponsor to the public for operation over a common carrier railroad or railroad authority.

- (2) Notwithstanding any other statute to the contrary, liability for all claims, whether for compensatory damages or punitive damages arising from a rail incident or accident occurring in the Commonwealth, and made against a nonprofit sponsor of a special passenger excursion train or owner or operator of an excursion train or against the railroad or rail authority over whose tracks the special passenger excursion train was operated when the accident or incident occurred, shall not exceed the valid and collectible liability insurance coverage maintained on the special passenger excursion train. The sponsor of a special passenger excursion train shall maintain or provide evidence of insurance coverage of not less than five million dollars (\$5,000,000) per occurrence or per claim. A nonprofit sponsor shall provide evidence of such coverage upon demand of the Transportation Cabinet.

**Effective:** July 15, 1994

**History:** Created 1994 Ky. Acts ch. 306, sec. 1, effective July 15, 1994.

**277.320 Contributory negligence -- Assumption of risk.**

In any action brought against a common carrier by railroad under KRS 277.310 to recover damages for injury to or death of any employee, the employee shall not be held to have assumed the risk of his employment nor to have been guilty of contributory negligence in any case where the violation by the carrier of any state or federal statute enacted for the safety of employees contributed to the injury or death of the employee. In a case where a safety statute has not been violated, the fact that the employee was guilty of contributory negligence shall not bar a recovery, but the damages shall be diminished by the jury in proportion to the amount of negligence attributable to the employee.

**Effective:** October 1, 1942

**History:** Recodified 1942 Ky. Acts ch. 208, sec. 1, effective October 1, 1942, from Ky. Stat. secs. 820b-2, 820b-3.

**277.330 Liability of railroads for killing or injuring cattle -- How damages divided.**

If cattle are killed or injured by the locomotive or cars of any railroad company on a track adjoining the lands belonging to or occupied by the owner of the cattle, and the owner has not received compensation for fencing his land along the railroad right of way, the loss shall be divided between the railroad company and the owner of the cattle, unless the cattle were killed or injured by the negligence of the agents or servants of the railroad company, in which case the company shall pay full damages.

**Effective:** October 1, 1942

**History:** Amended 1966 Ky. Acts ch. 255, sec. 225. -- Recodified 1942 Ky. Acts ch. 208, sec. 1, effective October 1, 1942, from Ky. Stat. sec. 809.

**277.360 Prohibition against requiring train crew members to show motor vehicle operator's license in investigations of train accidents or operation.**

In any circumstance involving an accident on a railroad, or any alleged violation of law involving the operation of a train, in which the engineer or any other train crew member is detained by any law enforcement officer investigating the accident or alleged violation of law:

- (1) The engineer and other train crew members shall not be required to show the law enforcement officer the person's operator's license issued under KRS Chapter 186; and
- (2) The law enforcement officer shall be prohibited from requiring an engineer or other train crew member to show the law enforcement officer the person's operator's license issued under KRS Chapter 186.

**Effective:** July 14, 2000

**History:** Created 2000 Ky. Acts ch. 497, sec. 1, effective July 14, 2000.

**277.990 Penalties.**

- (1) Any railroad company that violates or permits any of its agents or employees to violate any of the provisions of KRS 277.110, subsection (1) of 277.160, 277.170, 277.180, 277.210, 277.230 or 277.300 shall, in addition to subjecting itself to any damages that may be caused by such violation, be fined not less than one hundred dollars (\$100) nor more than five hundred dollars (\$500) for each offense, to be



recovered in the Franklin Circuit Court or in the circuit court of any county through which the railroad operates a line of road.

- (2) Any person who violates any of the provisions of subsection (2) of KRS 277.160 shall be fined not less than five dollars (\$5) nor more than one hundred dollars (\$100) for each offense.
- (3) Any railroad company that violates, or permits any of its agents or employees to violate, any of the provisions of KRS 277.190, shall, in addition to subjecting itself to liability for any damage caused thereby, be fined not less than ten dollars (\$10) nor more than fifty dollars (\$50) for each offense. Prosecutions under this subsection shall not be commenced after six (6) months from the commission of the offense charged in the prosecution.
- (4) Any person who violates any of the provisions of KRS 277.250 shall be fined fifty dollars (\$50) or imprisoned for thirty (30) days, or both.
- (5) Any owner or operator of a railroad running through or within this state as a common carrier of persons or property or both, for compensation, who either operates for its employees, or who furnishes to its employees for their transportation to or from the place or places where they are required to labor, a rail track motor car that has not been fully equipped as required by KRS 277.245, shall be fined not less than one hundred dollars (\$100) nor more than five hundred dollars (\$500) for each offense and each day or part of a day it operates or furnishes each of such rail track motor cars not so equipped as provided in KRS 277.245 to its employees for operation to or from the place or places where they are required to work shall constitute a separate offense.
- (6) Any railroad company that violates the provisions of KRS 277.200 shall be fined not less than twenty-five dollars (\$25) nor more than one hundred dollars (\$100) for each offense. If a grade crossing or drawbridge is obstructed by two (2) or more trains stopping and standing thereon in succession without allowing accumulated highway or water traffic to pass, the obstruction by each such successive train shall constitute a separate offense.

**Effective:** December 1, 2000

**History:** Amended 2000 Ky. Acts ch. 417, sec. 15, effective December 1, 2000. -- Amended 1970, sec. 201, sec. 2. -- Amended 1964 Ky. Acts ch. 158, sec. 16. -- Amended 1954 Ky. Acts ch. 90, sec. 1. -- Recodified 1942 Ky. Acts ch. 208, sec. 1, effective October 1, 1942, from Ky. Stat. sec. 773a-2, 786, 793, 805, 806, 842.